



RHS Bulletin

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Rikki-tikki COBRA

Note to brokers: Redwood Health Services has prepared the following article to help you explain COBRA requirements to employers. We invite you to share it with your clients when discussing their needs. For additional assistance, contact our COBRA specialist, Nancee Mertens, at nmertens@rhs.org or 800-548-7677, Ext. 101.

Cobra. The word sends chills up everyone's spine. For most people, the source of the chills is the image of a venomous snake, able to kill its victims with a single bite. But for employers, the image of a snake is displaced by an equally menacing pile of government regulations known as the Consolidated Omnibus Budget Reconciliation Act of 1985, or COBRA, which provides continuing health coverage after employees lose their jobs or have their hours reduced.

The key to mastering both cobras and COBRA can be found in the famous *Jungle Book* story of Rikki-tikki-tavi, the diminutive mongoose who conquers cobras. Rikki may be small, but he's fast and methodical, and in the end the cobras are no match for him.

Just like Rikki-tikki-tavi, employers can conquer COBRA if they move quickly and methodically, keeping three main points in mind. Think of them as Rikki, Tikki and Tavi.

The first point (Rikki) is the **qualifying event** that makes employees and their spouses or dependents eligible for COBRA. The second (Tikki) is the rigid **time frame** for electing COBRA coverage and paying premiums. The third (Tavi) is the **compliance recordkeeping** documentation requirement for all employers affected by COBRA.

Qualifying Events

Imagine that Rikki is one of your employees. There are only two events that can qualify Rikki or any other employee for COBRA:

- Voluntary or involuntary termination of employment for reasons other than gross misconduct
- Reduction in the number of hours of employment

Those two events also qualify employee spouses for COBRA, along with three more:

- Covered employee's becoming entitled to Medicare
- Divorce or legal separation of the covered employee

- Death of the covered employee

Finally, the employee's dependent children can become eligible for COBRA for any of the reasons listed above, along with one more:

- Loss of dependent child status under the plan rules

Employers should commit these COBRA qualifying events to memory. Whenever such an event occurs, an alarm bell should go off, saying, "This employee (or spouse or dependent) may be eligible for COBRA." The clock is ticking.

Time Frames

Speaking of ticking, here comes Tikki, our code name for those rigid COBRA time frames. Failure to comply with these deadlines can have serious consequences for employers.

For most qualifying events (termination, reduced hours, Medicare eligibility, death), employers have just **30 days** to notify their health plan administrator that an event has occurred. For divorce or legal separation or loss of dependent-child status, the qualified beneficiary (**not** the employer) has 60 days to notify the administrator.

After the health plan administrator receives notice of a qualifying event, they must send the employee or beneficiary a **COBRA election notice** within 14 days. The employee or beneficiary then has 60 days to decide whether to choose COBRA coverage. If the employee or beneficiary does elect coverage, they have 45 days to pay the initial premium.

Got that straight? Here's a timeline to help you remember:

- Notice to plan administrator: **30 days** for most events (60 days for divorce, legal separation or loss of dependent status)
- Notice to qualified beneficiaries: **14 days**
- COBRA election period: **60 days**
- Payment of initial premium: **45 days**

Compliance Recordkeeping

You've identified the qualifying events and met all the deadlines. What more could there be? The answer is Tavi, our code word for documents—lots of documents.

The simplest rule for COBRA compliance is to **keep everything**. It's not unusual for the Internal Revenue Service, attorneys or ex-employees to request COBRA-related records months or even years after qualifying events occur. If you do get such a request, you need to show "good faith" compliance with COBRA, and documentation will be your key piece of evidence.

Here are just a few examples of the kinds of COBRA records you need to keep. For safety's sake and HIPAA compliance, they should be maintained in a separate file.

- Letters to employees
- Notifications
- Records of telephone calls
- Election forms
- Mailing receipts
- Waivers
- Decision criteria
- Written procedures

Mastering COBRA

All these details can seem a bit overwhelming, but it's important to remember that there are only three main points for mastering COBRA:

- **Qualifying events** (Rikki)
- **Time frames** (Tikki)
- **Compliance recordkeeping** (Tavi)

Put all three together and you'll be just like Rikki-tikki-tavi, protecting your company from any venomous regulatory snakes. In the words of the *Jungle Book*: "Rikki-tikki had a right to be proud of himself; but he did not grow too proud, and he kept that garden as a mongoose should keep it, with tooth and jump and spring and bite, till never a cobra dared show its head inside the walls."

For more details about COBRA (but not cobras), contact Nancee Mertens, RHS human resources director, at nmertens@rhs.org or 800-548-7677, Ext. 101.

About RHS

Redwood Health Services, founded in 1976, provides employee benefit plans and third-party administrative services to both large and small employers.

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